

Claim Rejection under 35 USC 102

Parham: The Examiner has rejected claims 16-24, 26-27, 29-37, 39-40 under 35 U.S.C. 102(b) as being anticipated by Parham, Jr. et al, Patent No. 3798020. Your applicant has previously set out arguments regarding Parham. Your applicant now supplements those arguments. Claims 17, 18, 23, 24, 30, 31, 36 and 37 have been cancelled. In addition to prior argument, your applicant only uses one acid in the presence of a monoammonium orthophosphate fertilizer.

As previously stated, regarding Parham et al, "The patent provides a mixture of citric acid and phosphoric acid ions in combination to overcome this problem". The Examiner's attention is drawn to the specification and claims of your applicant. The disclosure and claims of Parham et al differs from your applicant's claims in that your applicant only uses one acid in the presence of a monoammonium phosphate fertilizer. Monoammonium phosphate is referenced in the specification at pages 6 and 7, Examples 1 and 2. Your applicant does not disclose or claim a combination of citric and phosphoric acids and your applicant does not disclose or claim a combination of organic and inorganic acids. Your applicant discloses and claims the use of only one acid. Further, your applicant use none of the ions in the group in Parham et al at claim 1, column 8, commencing at line 5. Additionally your applicant does not disclose or claim the use of polyphosphate in proportion to citric acid at a ratio of 0.5 to 10 parts by weight of polyphosphate as is seen at claim 1 of Parham. Claims referring to a polyphosphate compound have been cancelled including claims 11, 24 and 37.

Beaty and Neumiller: The Examiner has rejected claims 16,-18, 23-25, 27-28 under 35 U.S.C. 102(b) as being anticipated by Beaty, Patent No. 5634959, or Neumiller, Patent No. 3918952. The Examiner has stated that "The patents show EDTA and polyphosphate in fertilizer formulations in amounts that coincide herein." The Examiner

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Application No. 09/434,353

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1 cites Col. 4 in '959 and examples 1 and 8 for instance, in '952.

2 Your applicant respectfully responds as follows re: Beaty: Your applicant neither
3 specifies nor claims use of seaweed, fish solubles, magnesium sulfate, calcium silicate or
4 potassium. Regarding Neumiller please note that your applicant neither specifies nor
5 claims EDTA, alcohol, surfactant, urea or KCl. Your applicant's use discloses a much
6 higher chelate concentration far outside the range of Neumiller.

7 Claims referring to a polyphosphate compound have been cancelled including
8 claims 11, 24 and 37.

9 Claims 1, 16, and 29 have been amended as follows: "...administering to the
10 foliage, a monoammonium orthophosphate plant ...fertilizer in combination with an acid,
11 whereby said acid is an inorganic acid or an organic acid with three or less carboxyl
12 groups whereby said acid enhances delivery of the fertilizer to the plant."

13 Claim 12, 25 and 38 have been amended as follows: "...phosphorous acid, [an acid
14 with a molecular weight of not more than [400] 280], a phosphorus-containing acid ...".

15 **General:** Claim 3 has been amended for clarification to state "...The method of
16 claim 1 wherein said fertilizer [includes an acid,] is in combination with said acid reacting
17 with...".

18 Claim 6, 19 and 32 have been amended for clarification to state "The method
19 of claim...wherein said acid is an organic acid comprised of [is] citric acid."

20 Claim 25 has been amended to depend from claim 16 and claim 38 has been
21 amended to depend from claim 29.

22 Claims 21 and 22 have been amended to depend from claim 20.

23 Claim 39 has been amended to depend from claim 29.

24
25 **Law regarding 35 USC 102.**

26 Your applicant has set out law regarding these issues in the previous paper and

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Application No. 09/434,353

1 now respectfully refers the Examiner to the prior paper.

2 The applicant respectfully requests the Examiner to withdraw the 102 rejections in
3 light of the argument, amendments and responses submitted and to allow the claims.

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5
6 **Rejection under 35 USC 103**

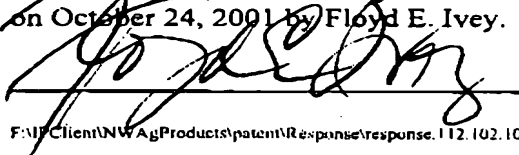
7
8 **Parham** - The Examiner has rejected claims 1 - 11, 14, 16-24, 26-27, 29-37, 39-
9 40 under 35 USC 103(a) as being unpatentable over Parham, Jr. et al. Claims 4, 5, 10, 11,
10 17, 18, 23, 24, 30, 31, 36 and 37 have been cancelled. Claims 27, 28 and 40 were
11 previously cancelled. Your applicant comments, in addition to comments in the prior
12 paper, that:

13 As stated in Claim 1 of Parham, from which all remaining Parham claims depend,
14 "A process for sequestering and inhibiting precipitation of a micronutrient metal cation
15 selected from the group consisting of zinc, iron, copper, and manganese, in a liquid
16 phosphate fertilizer solution, which comprises incorporating in said solution a synergistic
17 combination of said micronutrient metal cation, a water-soluble polyphosphate, and a
18 water-soluble citric acid salt; the proportion of said polyphosphate to said citric acid salt
19 being about 0.5 to 10 parts by weight of polyphosphate, measured as P_2O_5 , to one part by
20 weight of citric acid salt, measured as citric acid." The Examiner is respectfully directed
21 to the fact that there is no polyphosphate present in your applicant's claim and no
22 polyphosphate in the ratio claimed in Parham claim 1 from which remaining Parham
23 claims depend.

24 In your applicants prior paper, the following comments were found: Parham's
25 invention contains three components, a micronutrient (from the group listed), a water-
26 soluble polyphosphate, and a water-soluble citric acid salt. The Examiner is respectfully

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Application No. 09/434,353



1 directed to the following: Your applicant's invention, simply stated, contains none of
2 these. Your applicant's invention

3 (1) does not contain micronutrients much less any of the micronutrients within the
4 group in Claim 1 of Parham.

5 (2) does mention an interaction with metallic cations in the soil. However, these
6 are not being supplied as micronutrients, and further comprise a hindrance to the
7 transport of phosphate and nothing more. Any metallic cation in the soil will
8 become more soluble in the presence of any acid. To reject this patent on this
9 basis would mean that Parham precludes the addition of any acid to soil, because
10 the side-effect is that the micronutrients in the soil will become more soluble and
11 facilitate plant uptake.

12 (3) doesn't use a polyphosphate but rather uses a monophosphate fertilizer.

13 (4) doesn't use a citric acid salt but uses citric acid.

14 Claims referring to a polyphosphate compound have been cancelled including
15 claims 11, 24 and 37. Claims 1, 16 and 29 have been amended to include the limitation
16 of "a monoammonium orthophosphate" as the fertilizer.

17
18 **Law regarding 35 USC 103.**

19 Your applicant has set out law regarding these issues in the previous paper and
20 now respectfully refers the Examiner to the prior paper.

21 The applicant respectfully requests the Examiner to withdraw the 103 rejections in
22 light of the argument, amendments and responses submitted and to allow the claims.

23 **SUMMARY OF AMENDMENTS AND REMARKS**

24 The applicant has made a good faith effort to amend claims and set forth argument
25 in accordance with the discussion between the Examiner and your applicant's
26 representative of October 23, 2001, and has addressed all objections and rejections

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Application No. 09/434,353

disclosed therein. Accordingly, the applicant has made a good faith attempt to meet each objection and/or rejection as noted by the Examiner. The applicant has cancelled and amended claims. Accordingly your applicant requests the Examiner to withdraw the said objections and rejections and to allow the claims as set forth and as amended.

Respectfully submitted,

FLOYD E. IVEY
Registration No. 35,552

Telephone No. (509) 735-3581

CERTIFICATE OF TRANSMISSION:

The undersigned hereby certifies that this correspondence is being facsimile transmitted to the Patent and Trademark Office Fax No. (703) 872 9362; 305-3602 on October 24, 2001.

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Application No. 09/434,353

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